

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

ZAHRA MOWAFY,	:	NO: 05-733-KAJ
	:	
Plaintiff	:	
v.	:	JURY TRIAL DEMANDED
	:	
NORAMCO OF DELAWARE, INC.	:	
And NORAMCO, INC.	:	
	:	
Defendant	:	

**PLAINTIFF'S RULE 55(a) MOTION TO THE CLERK
FOR AN ENTRY OF DEFAULT**

Pursuant to Fed. R.C.P. 55(a), plaintiff Moves the Clerk to enter defendants' default in this action.

Facts

On October 18, 2005, Plaintiff filed her Complaint and an Amended Complaint was filed November 1, 2005. A waiver of service of summons and complaint was executed on the defendants' behalf on December 22, 2005 and filed with the Court on February 22, 2006. The Answer to the initial Complaint was due sixty (60) days after service of the request for waiver under Fed. R.C.P. 4(d)(3). No Answer has been filed.

Discussion

Fed. R.C.P. 55(a) states that "When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default.

As the docket and factual recitation set forth above makes clear, defendants have failed to file an Answer to either the Complaint or the Amended Complaint. Nor have they filed a

Motion to Dismiss or otherwise challenged matters such as service, venue or the sufficiency of the Complaint.¹

Defendants have defaulted and failed to plead or otherwise defend as required by the Federal Rules of Civil Procedure. Accordingly, Fed. R.C.P. 55(a) now requires that “the clerk shall enter the party’s default.”

Respectfully submitted,

THE NEUBERGER FIRM, P.A.

/s/ Stephen J. Neuberger
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Date: March 14, 2006

¹ See 10A Wright, Miller & Kane, Federal Practice and Procedure: Civil 3d § 2682, 16 (1998) (noting that the “words ‘otherwise defend’ refer to the interposition of various challenges to such matters as service, venue, and the sufficiency of the prior pleading, any of which might prevent a default if pursued in the absence of a responsive pleading”).

CERTIFICATE OF SERVICE

I, Stephen J. Neuberger, being a member of the bar of this Court do hereby certify that on March 14, 2006, I caused two (2) copies of this Motion to be served on the counsel named below by the means indicated:

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Date: March 14, 2006